

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

AMON W. PERSHALL, JR.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CIV-11-0961-HE
	)	
MATTHEW PIATT, ET AL.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff Amon Pershall, a state prisoner appearing *pro se*, has filed this action pursuant to 42 U.S.C. § 1983 alleging defendants violated his Fourth Amendment rights. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Bana Roberts. After reviewing the complaint pursuant to 28 U.S.C. § 1915A(b)(2), she has recommended plaintiff's claims against defendants Stano and Thomas be dismissed with prejudice on the basis of absolute judicial immunity. [Doc. #9]. Plaintiff filed an objection to the Report and Recommendation contending immunity is inapplicable to the present case. [Doc. #12]. After conducting a de novo review of the issue, the court agrees with Judge Roberts and concludes defendants Stano and Thomas are entitled to absolute judicial immunity from plaintiff's claims.


Notwithstanding the cause of action created by 28 U.S.C. § 1983, judges are entitled to absolute immunity from civil liability arising out of actions performed in their judicial capacity. Henriksen v. Bentley, 644 F.2d 852, 855 (10th Cir. 1981) (citing Stump v. Sparkman, 435 U.S. 349 (1978)). A judge can be personally liable for such actions only

when he or she acts in the “clear absence of all jurisdiction.” Stump, 435 U.S. at 357 (citation omitted). According to plaintiff’s complaint, “Judge Stano signed probable cause affidavit on 11-12-2010 at 1:55 pm., that shows no probable cause for contact” and “Judge Thomas, after hearing sworn testimony from officer Piatt that he had no reason for contact, Judge Thomas still bound me [plaintiff] over to trial court.” [Doc. #1, Complaint, p. 2B]. These are quintessential judicial functions and defendants Stano and Thomas are therefore entitled to absolute immunity from plaintiff’s claims.

The court **ADOPTS** Magistrate Judge Roberts’s Report and Recommendation [Doc. #9] and **DISMISSES** plaintiff’s claims against defendants Stano and Thomas with prejudice. Plaintiff’s claims against defendant Piatt remain for further adjudication.

**IT IS SO ORDERED.**

Dated this 23rd day of November, 2011.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE